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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/190,309	11/12/1998	DANIEL R. SCHNEIDEWEND	RCA89.041	6495

7590

10/03/2007

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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 10/03/2007

Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/190,309
Filing Date: November 12, 1998
Appellant(s): SCHNEIDEWEND ET AL.

Brian J. Dorini
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 4/11/2007 appealing from the Office action mailed 1/16/2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings, which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct

(4) Status of Amendments After Final

The statement of the status of claims contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Young et al. (U.S. Patent No. 5,479,268)

Roop et al. (U.S. Patent No. 5,619,274)

System Information Protocol for Terrestrial Broadcast and Cable (ATSC
Specification)

Usui et al. (U.S. Patent No. 5,808,694)

Landis et al. (U.S. Patent No. 5,561,461)

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 4-6, 10-11, 13-17 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Young et al. (U.S. Patent No. 5,479,268).

Referring to claim 1, Young discloses a processor (see Figures 22A and 22B and Column 12, Lines 38-52) for providing an EPG (see Figure 1), wherein the television

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receiver includes a processor (see CPU 228 in Figure 22A) and stores a program schedule (see Column 12, Lines 64-67), the EPG operable by a user to select a first program and a second program (see Figure 1) received from corresponding program sources (see Figure 1 for the first program NEWS coming from channel/source CNN and the second program Jane Wallace coming from channel/source LIF (Lifetime channel)) and to select a first program processing function for the first program and to select a second program processing function for the second program (see Figure 2 and Column 5, Lines 37-38 and Column 7, Lines 24-30 for selecting programs to be recorded).

Young also discloses a tuner (see tuner 202 in Figure 22A) operable by the processor to receive for the first program, first current time reference information from a first corresponding program source (see Column 12, Lines 58-61 for receiving EPG information and Figure 1 for the EPG information containing programs, which are displayed for a specific time period (for example see Figure 1 for Lunch Box being broadcast at 12:00 PM) from a particular programming source (see Figure 1 for channel CNN, which is a broadcast source), wherein the first current time reference information provides information for synchronizing a scheduling clock with a clock of the first corresponding program source (see Column 12, Line 58 through Column 13, Line 24 for using the incoming EPG information (which includes current time reference information for each program from each program (channel) source) to synchronize the scheduling clock (clock used to determine when to trigger a recording event) with a

clock of the first corresponding program source (the time in the EPG data used to determine what time and channel to start the recording function)).

Young also discloses that the tuner operable by the processor also receives for the second program, second current time reference information from a second corresponding program source (see again Column 12, Lines 58-61 and Figure 1 Jane Wallace being broadcast from source LIF at 11:00 AM), wherein the second current time reference information provides information for synchronizing a scheduling clock with a clock of the first corresponding program source (see Column 12, Line 58 through Column 13, Line 24 for using the incoming EPG information (which includes current time reference information for each program from each program (channel) source) to synchronize the scheduling clock (clock used to determine when to trigger a recording event) with a clock of the first corresponding program source (the time in the EPG data used to determine what time and channel to start the recording function)). Further note Figure 4, which shows that multiple programs on multiple channels can be scheduled for recording, therefore a first and second program with two different clocks from two different sources can provide information for synchronizing a scheduling clock.

Young also discloses that the processor is programmed to derive a first scheduling clock based on the first current time reference information, the first scheduling clock synchronized with the clock of the first corresponding program source (see Column 13, Lines 14-17 for saving the record time in RAM 236, therefore deriving a first scheduling clock that is synchronized with the clock of the first program source (sent in the EPG data)).

Young also discloses that the processor is programmed to initiate the first program processing function based upon the first scheduling clock (see Column 13, Lines 17-22).

Young also discloses that the processor is programmed to derive a second scheduling clock based on the second current time reference information, the second scheduling clock synchronized with the clock of the second corresponding program source (see Column 13, Lines 14-17 for saving the record time in RAM 236, therefore deriving a first scheduling clock that is synchronized with the clock of the second program source (sent in the EPG data)). Further note Figure 4, which shows that multiple programs on multiple channels can be scheduled for recording, therefore a first and second program with two different clocks from two different sources can provide information for synchronizing a scheduling clock.

Young also discloses that the processor is programmed to initiate the second program processing function based upon the second scheduling clock (see Column 13, Lines 17-22).

Referring to claims 2, Young discloses that the current time reference information (the start and end time of a program in the received EPG data (see the rejection of claim 1)) provides a current time-of-day indication (see again Figure 1 for NEWS starting at 11:00 AM, which is a current time of day (the time the program is currently being broadcasted)).

Referring to claim 4, Young discloses that the first programming processing function is at least one selected from the group consisting of a record function (see the rejection of claim 1).

Referring to claim 5, Young discloses that the group of claim 4, further consists program decoding (see Column 13, Lines 60-61).

Referring to claim 6, Young discloses that the processor is programmed to terminate the second program processing function based upon the second scheduling clock (see Column 13, Lines 14-22 for recording a program according to it's start time and length, wherein the length allows the processor to calculate when to stop the recording at the end of the television program).

Referring to claim 10, see the rejection of claim 2.

Referring to claim 11, see the rejection of claim 1 for providing a scheduling clock, which is a setting to record a television program, which indicates what time and day to record a program.

Referring to claim 13, Young discloses that the tuner is operable to receive the first current time reference information from a first corresponding program source that is a broadcast source (see Column 12, Lines 58-62).

Referring to claim 14, Young discloses that the system comprises a central scheduling clock (see Column 13, Lines 3-24).

Young also discloses that the processor is programmed to provide the first scheduling clock by updating the central scheduling clock with time information generated based on the first current time reference information (see Column 13, Lines 14-24).

Young also discloses that the processor is programmed to provide the second scheduling clock by updating the central scheduling clock with time information generated based on the first current time reference information (see Column 13, Lines 14-24).

Referring to claim 15, Young discloses that the processor is programmed to maintain, for at least a period of time, both the first and second scheduling clock (see again Column 13, Lines 13-24 for maintaining the scheduled times (first and second scheduling clock for a first and second program, respectively) until the system clock 230 matches the scheduled program times (transmitted with the EPG information)).

Referring to claims 16-17, see the rejection of claims 1-2.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 3 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Young et al. (U.S. Patent No. 5,479,268) in view of Roop et al. (U.S. Patent No. 5,619,274).

Referring to claim 3, Young discloses that the system further comprises a display for displaying a current time-of-day to a user (see the current time 11:25A being displayed to a user in Figure 1)

Young fails to disclose that the processor is operable to provide an output for updating the display of the current time-of-day based upon the first current time reference information and a filter for filtering the output to inhibit a discontinuous change in the current time reference information from causing a discontinuous change in the display of the current time-of-day and for providing the filtered output to the display.

Roop discloses a filter for filtering said output such that any discontinuity in the current time reference information is prevented and displaying the updated time to the user (see the Daylight Savings Time Change Command in Column 39 and note that automatically changing the current time according to the corrected Daylight Savings time prevents any possible discontinuity), and providing said filtered output to said display (see Column 40, Lines 19-22).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify EPG data receiving system, as taught by Young, to include the daylight savings data, as taught by Roop, for the purpose of displaying

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schedule data for time periods that contain the correct adjusted local time (see Column 40, Lines 21-22 of Roop).

Referring to claim 18, see the rejection of claim 3.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Young et al. (U.S. Patent No. 5,479,268) in view of the Program and System Information Protocol for Terrestrial Broadcast and Cable document (herein referred to as the ATSC document) in further view of Landis et al. (U.S. Patent No. 5,561,461).

Referring to claim 7, Young discloses that the tuner is operable to receive EPG data from various types of means and further notes that "Other means of delivering schedule information can be employed, including the use of a subcarrier channel on the cable service", however, Young fails to teach that the tuner receives STT data that includes a time reference indicator and associated correction data sufficient to establish a time of transmission of a program by a corresponding broadcast source accurate to within about plus or minus 4 seconds.

The ATSC document teaches that a current time reference information comprises a System Time Table (SST) data of an MPEG compliant data stream (see Pages 1 and 11-12), and wherein said stored program schedule is derived from an Event Information Table (EIT) of an MPEG compliant data stream (see Pages 1 and 11-12).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the data transmitted from the servers in packetized form, as taught by Roop, to adhere to the MPEG standard with STT and EIT tables, for the purpose of providing a collection of hierarchically arranged tables for describing system information and program guide data (see Page 11, Lines 1-2 of the ATSC document).

Young and the ATSC document fail to teach that the time of transmission is correct to within about plus or minus 4 seconds.

Landis also discloses a television receiver that is capable of receiving a time correction command, which is accurate to within seconds, therefore teaching accurate to within about plus or minus 4 seconds (see Column 3, Lines 1-7).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the television receiver, as taught by Roop and the ATSC document, using the enhanced television receiver that receives a time correction command, as taught by Landis, for the purpose of maintaining accurate time (see Column 6, Lines 6-8 of Landis).

5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Young et al. (U.S. Patent No. 5,479,268) in view of the Program and System Information Protocol for Terrestrial Broadcast and Cable document (herein referred to as the ATSC document).

Referring to claim 12, Young discloses that the tuner is operable to receive EPG data from various types of means and further notes that "Other means of delivering schedule information can be employed, including the use of a subcarrier channel on the cable service", however, Young fails to teach that the first and second current time reference information comprises STT data of an MPEG compliant data stream, and the stored program schedule is derived from an EIT of an MPEG compliant data stream.

The ATSC document teaches that a current time reference information comprises a System Time Table (SST) data of an MPEG compliant data stream (see Pages 1 and 11-12), and wherein said stored program schedule is derived from an Event Information Table (EIT) of an MPEG compliant data stream (see Pages 1 and 11-12).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the data transmitted to the television receivers, as taught by Young, to adhere to the MPEG standard with STT and EIT tables, for the purpose of providing a collection of hierarchically arranged tables for describing system information and program guide data (see Page 11, Lines 1-2 of the ATSC document).

6. Claims 8-9 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Young et al. (U.S. Patent No. 5,479,268) in view of Usui et al. (U.S. Patent No. 5,808,694).

Referring to claim 8, Young discloses that the tuner is operable to receive first current time reference information that is based on a first time-of-day clock, and that the

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tuner is operable to receive second current time reference information, however, Young is silent as to receiving EPG information (second current time reference information) based on a second time-of-day clock, with the second time-of-day clock being unsynchronized with the first time-of-day clock.

Usui teaches receiving first and second current time reference information (EPG information) from two separate sources (see Column 17, Lines 8-22 and Figure 22). Further note that Usui teaches that in the U.S.A. that time information is included in the EPG information (see Column 5, Lines 45-51 and Column 17, Line 60 through Column 18, Line 5), therefore the first and second current time reference information (EPG information transmitted from separate source) are clearly based on a first and second time-of-day clock, wherein the clocks are inherently unsynchronized because they are transmitted from two distinct sources/locations.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the television receiver, as taught by Young, using the multiple EPG receiver functionality, as taught by Usui, for the purpose of allowing operability to be improved and a desired program to be selected in a short time and at a high degree of reliability (see Column 18, Lines 18-20 of Usui).

Referring to claim 9, see the rejection of claim 8.

Referring to claim 19, see the rejection of claim 8.

(10) Response to Argument

1) Regarding claims 1 and 16, Young does NOT disclose or Suggest (1) Receiving First and Second Current Time Reference Information and Two Different Program Source, and (2) Synchronizing a Scheduling Clock with a Clock from Two Different Program Sources.

In regards to independent claims 1 and 16, Applicant argues that Young does not disclose "a tuner operable by the processor to receive (1) for the first program, first current time reference information from a first corresponding program source, wherein the first current time reference information provides information for synchronizing a scheduling clock with a clock of the first corresponding program source".

As indicated by the examiner in the Final Office Action dated 1/9/2007, Young teaches that when an update is required, programmable tuner 202 will be tuned automatically to the station or cable channel (program source) carrying the data, where the EPG listings data is extracted from the VBI of the channel (**see Column 12, Lines 58-67**) and stored in schedule memory 232.

Young teaches that other information is transmitted to the schedule/tape controller 180 and stored in the system RAM memory 240, which includes **schedule update time and last minute schedule change data**. The examiner notes that either one of these pieces of information can be interpreted as the current time reference information from a first corresponding program source. Again note, that Column 12,

Lines 62-64 for the data being received from a channel carrying the data, therefore teaching a first, second or third program source.

Further, Young teaches that the updated schedule information (**or last minute schedule change data**) provides information for properly synchronizing scheduling clock (**the system clock 230 disclosed at Column 13, Lines 17-20**) with a clock corresponding to the first corresponding program source (**the schedule update information transmitted from the first program source**) by providing the schedule update information (**Column 13, Lines 3-8**) and by recording a selected program in the future by comparing the system clock 230 to the program start time copied to the Record Memo RAM 236 from the program start time stored in schedule memory 232 (**and is updated by a schedule update time at Column 13, Lines 3-8**).

Applicant further argues that Young also fails to teach "(2) for the second program, second current time reference information from a second corresponding program source, wherein the second current time reference information provides information for **synchronizing** a scheduling clock with a clock of the second corresponding program source".

Young clearly teaches that multiple programs transmitted from multiple sources can be scheduled for recording (see **Figure 4 for multiple programs on multiple channels being scheduled for recording**). Further, as discussed in the arguments above, Young discloses transmitting schedule update information used for making last minute scheduling changes, therefore, since more than one program is

scheduled for recording and schedule update information is transmitted in addition to the schedule information stored in schedule memory 232, clearly a second, third or even fourth current time reference information can be received and used to update the time of additional programs scheduled for recording, thereby teaching second current time reference information **providing** information for synchronizing scheduling clock with a clock of the second corresponding program source (the program transmitted on a second channel).

Applicant also argues that Young does not describe that “clock update data” comes from a program source, and even more clearly does not describe that a scheduling clock is synchronized with clocks from two different program sources.

Again, see Column 13, Lines 3-8 for receiving schedule update time, clock update data and last minute schedule change data, which is transmitted to the receiver when an update is required (**further note Column 12, Lines 58-67 for receiving schedule information in the VBI when an update is required**). Further note that Young clearly teaches that multiple programs transmitted from multiple sources can be scheduled for recording (**see arguments above and Figure 4 for multiple programs on multiple channels being scheduled for recording**).

Applicant also argues that the same passage of Young is used for teaching two different sets of claims limitations. The examiner has interpreted the teachings of multiple recordings being made by the invention of Young (**which applies to multiple**

programs from multiple sources) to apply to the teachings of the claims (**see arguments above**). Simply because the same passage is used to teach two different portions of the claim does not exclude Young from teaching two separate instances of recording programs from two separate sources at two separate times, which clearly reads on the claim limitations (**see arguments above**)

2) Regarding Claim 15, Young does NOT Disclose Two Separately Maintained Scheduling Clocks

Applicant argues that Young only has one system clock, and therefore could only possibly disclose one of the recited scheduling clocks.

The examiner notes that claim 15 does not recite simultaneously maintaining two scheduling clocks during a period of time, as argued by Applicant. Claim 15 recites, "wherein the processor is programmed to maintain, for at least a period of time, both the first scheduling clock and the second scheduling clock". Young clearly teaches maintaining multiple clocks in Figure 4, by teaching multiple recordings being schedule for a period of time (11:30 AM to 9:00 PM during day 4/3). Therefore, Young clearly discloses maintaining two clocks for a period of time.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Jason Salce

August 1, 2007

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